

BioSide™ HS 5% (peroxyacetic acid solution) Label Interpretation

Date	November 25, 2003
Enclosure to	Enforcement Letter ENF 03-41
Distribution	County Agricultural Commissioners
Referral	If you have any questions pertaining to this letter, please contact your senior pesticide use specialist liaison.
Introduction	This responds to a request for a labeling interpretation for the product BioSide™ HS 5 % (Peroxyacetic Acid Solution), EPA Registration No. 63838-1-AA, concerning its use in a asparagus shed hydro cooler.
Question	Is the product BioSide™ HS 5 % (BioSide™) registered for use in hydro coolers to treat water to cool asparagus?
Answer	<p>Review of the BioSide™ labeling indicates that the BioSide™ label is "exclusive" to the type of cooling water systems this product is registered for.</p> <ul style="list-style-type: none">• The BioSide™ labeling states: "Control of Slime Forming on Cooling Water Systems (Cooling Towers, Evaporative Condensers)."• Because of the way the "Directions for Use" is structured, the labeling only allows use on two types of cooling water systems, which are: Cooling Towers and Evaporative Condensers.• Thus BioSide™ is not registered for use in hydro coolers. A hydro cooler is neither a cooling tower or an evaporative condenser.

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DPR's labeling policy

This interpretation is based on DPR's labeling policy concerning "Site Interpretation" found in the Manual of Procedural Guidance for Pesticide Enforcement Personnel, page 105 which states:

- “If the label statement is structured to indicate that the list is exclusive, i.e., deciduous orchards - apples and pears, then only those commodities or sites can be treated.”
 - “Conversely, there are some cases where the commodity and site listed on the label cannot be considered exclusive. When the list is preceded by "such as " or "including," the product can legally be used on other species covered by the general term. For example, if the label states "deciduous fruit orchards such as apples, peaches, and pears," the use of the product in deciduous fruit orchards cannot be considered use in conflict with the label.”
 - “Some labels, particularly rodenticides, may not indicate a specific site and any interpretation of application sites could be quite broad.”
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Conflict with labeling

The use of BioSide™ in a hydro cooler would be considered a use that is in conflict of the BioSide™ labeling and is a violation of Food and Agricultural Code section 12973 – conflict with labeling.

Special note

The use of BioSide™ to control slime in hydro coolers is a primary use. The use of the treated water to hydro cool commodities, such as asparagus, is considered secondary or incidental to this primary use. Therefore, if BioSide™ were registered for use in a hydro cooler, it would not be considered use in conflict with labeling if treated water comes in contact with the commodity.
